REMARKS

Applicant has made corrections to the specification to correct punctuation errors. No new matter has been added. Applicant has cancelled claim 4 and incorporated the features of claim 4 into independent claim 1. For prosecution efficiency, Applicant will address the rejections of the originally filed claims as they pertain to the amended claims.

Claims 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 were rejected under 35 USC 103(a) as being unpatentable over Moore in view of Salive. Claim 4 has been cancelled in this response. Claims 5 and 6 were rejected as being unpatentable over Moore in view of Salive and further in view of Pastor.

Regarding the rejection of claims 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 as being unpatentable over Moore in view of Salive. A general description of the novel features of the present invention includes an unrepreoduceable pattern associated with the label and an encrypted portion which includes information from the unreproduceable pattern. Since these features are found throughout the claims in different combinations and levels of detail, the discussion will be directed to the features generically and not particular claims. The Office Action states that unreproduceable pattern is taught by column 12 of Moore. Applicant disagrees; Moore column 12 does not teach an unreproduceable pattern. Moore, Column 12 recites encoding data such as a lot number, a manufacturers identification number, a company identifier, etc.; however, the data is not unreproduceable data which is uniquely associated with a particular label. Moore at column 4 mentions encryption. Moore does not teach combining an unreproduceable pattern and encryption to produce a unique, secure label. Salive does also does not teach an unreproduceable pattern. Applicant's method combines both the unreproduceable

pattern associated with the label and the encryption giving the label uniqueness and security. Thus, replication of the label would not be possible because of the uniqueness, as taught Applicant's specification at pages 6-7, where the unreproduceable pattern is, for example, a unique magnetic strip or ink spots. A representation of the unique or unreproduceable pattern is used to create an encrypted message which together produce a secure label which could not be reproduced without extraordinary efforts. Moore does not teach an unreproduceable label and thus, Moore's label and encrypted information can not provide the security of Applicant's invention. Moore's label could be copied and placed on another article. Since an unreproduceable pattern is not taught by Moore or Moore in view of Salive, the Office Action failed to make a prima facie case of obviousness for claims 1, 10 and 11 and claims 2, 3, 5, 6, 7, 8 and 9 based on their dependence from claim 1. Thus claims 1-3 and 5-11 should be allowed.

Claim 5 was rejected under 35 USC 103 as being unpatentable over Moore in view of Salive and further in view of Huddleston. As argued above, based on its dependence from claim 1, the Office Action failed to make a prima facie case of obviousness for claim 5 and claim 5 should be allowed. Additionally, Moore in view of Salive further in view of Huddleston does not render the present invention obvious because: (1) Huddleston is non-analogous art and therefore cannot serve has a prior art reference against the present invention; and (2) Huddleston does not contain any teaching or suggestion of the features of the present invention as claimed. Generally, this issue of whether art is analogous turns on whether the inventor of the present invention "Would reasonably be motivated to go to the field in which the Examiner found the reference in order to solve the problem confronting the inventor." In Re Oetiker, 24 U.S.P.Q.2d 1443, at 1446 (Federal Circuit 1992). To qualify as

analogous art, a reference must satisfy a two part test and must be: (1) within the inventor's field of endeavor and (2) prudent to the inventor's particular problem. Huddleston does not pass the two part test; the reasons are set out as follows:

> *First, Huddleston is not related to the inventors field of endeavor.* Huddleston relates to the field of garment fabrication. More particularly, Huddleston is directed to methods for manufacturing garments using magnetic markings and detecting the magnetic marking and performing automated cutting, stitching and folding of garments at the magnetized portions. See Huddleston column 3, lines 53-64. From this description, it is clear Huddleston relates to mass fabrication of garments. Huddleston does not address providing secure labels. On the other hand, the present invention relates to preventing counterfeiting of articles by providing unique, unreproduceable markings with the secure labels. *Second, Huddleston is not pertinent to the inventor's particular problem.* Huddleston addresses the problem of actuating garment manufacturing by providing machine readable markings. On the other hand, the present invention relates to providing secure labeling to reduce counterfeiting.

Since Huddleston fails the two part test, Huddleston is nonanalogous art and Applicant respectfully request that rejection based upon Moore in view of Salive further in view of Huddleston be withdrawn and claim 5 be allowed.

Assuming arguendo, that Huddleston is analogous art, Huddleston does not contain any teaching or suggesting of the features of the present invention as claimed. A general description of the novel features of the present invention includes an unrepreoduceable pattern associated with the label and an encrypted portion which includes information from the unreproduceable pattern. Applicant's claimed

invention combines an unreproduceable pattern and encryption to produce a label that cannot be reproduced without extraordinary effort. The unreproduceable pattern is digitally signed using encryption techniques. The combination of the uniqueness of the label and the security of the encryption are novel. Therefore, claim 5 should be allowed.

In view of the foregoing amendments and following remarks, it is respectfully submitted that the claims of this application are now in a condition for allowance and favorable action thereon is requested.

Respectfully submitted,

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